

TOWN OF THORNTON

Zoning Board of Adjustment

Approved on: 9/27/2017
ZBA Initials: [Signature]
Rec'd by Town Clerk on: 10-2-17
Town Clerk Initials: [Signature]

ZONING BOARD OF ADJUSTMENT MEETING MINUTES

Wednesday, August 30, 2017

CALL TO ORDER:

W. Rose called the meeting to order at 7:00 p.m.

ROLL CALL:

The following members were present:

W. Rose, Chairman D. Day, Member J. Marshall, Member
S. Bartlett, Member Joseph M. Monti, Alternate

Also Present: J. Fleury, Board Secretary

PUBLIC HEARING: Variance application for property owners Bruce and Laura Rodgers on property identified as Tax map 6 Lot 3-9 located on 3374 US Route 3.

Public Present: Bruce Rodgers, Steven Tower, Eddie and Joan Donovan

At 7:10 p.m. W. Rose opened the Public Hearing to hold a hearing on the application submitted by Roy A. Sabourn, LLS as agent for property owners Bruce and Laura Rodgers for a Variance as provided for in Article VI section D of the Thornton Zoning Ordinance to permit an existing, dilapidated 5-bedroom house to be converted into 2, two-bedroom dwelling units on less than 2 "qualifying acres" for property identified as Tax map 6 Lot 3-9 located on 3374 US Route 3.

Steve Tower, Sabourn and Tower Surveying, introduced himself as representing Bruce and Laura Rodgers.

S. Tower stated that the Rodgers purchased a property about a mile north on Route 3.

S. Tower stated that the property currently has a large residence on it, and Mr. Rodgers would like to convert the residence into two apartments each having two bedrooms. He is respectfully asking for a variance from Article VI Section D of the Thornton Zoning Ordinance to permit an existing, dilapidated 5-bedroom house to be converted into 2, two-bedroom dwelling units on less than 2 "qualifying acres".

S. Tower requested to read the letter drafted from Roy Sabourn on that was forwarded with the application because it summarizes the history of the property and the work that Mr. Rodgers has already put into the property. S. Tower stated that the letter explains why the variance is justifiable and reasonable.

B. Hodges stated that he would be willing to waive the reading of the letter since the board members have already read the letter prior to the meeting.

S. Tower stated that the property is over 5 acres and the problem is that the only countable acreage according to the Zoning Ordinance is the .3 acre area that occupies the house. The majority of the land is

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down the bank and on the other side of the brook and is not buildable. There is currently a large residence on the land.

S. Tower requested permission to convert the existing 4-bedroom home to a two-unit two-bedroom dwelling. A new updated septic system design has been approved by the State. The NHDOT has also approved a new and improved driveway permit that will correct the current parking deficiency.

S. Tower read the facts in support of granting the variance per the application form as stated:

1. Granting the variance would not be contrary to the public interest because (1) multi-family dwellings are allowed in all Thornton zones, (2) the proposed variance does not unduly conflict with the basic zoning objectives of the ordinance, (3) the proposed variance would not alter the essential character of the locality, and (4) it would not threaten public health, safety, or welfare. In support of items 2 and 4 above, one needs to review the Thornton Zoning Ordinance, Article 1, Preamble and Purpose, particularly items A, B, C, E, R, and I. The proposed parking lot to be constructed in conjunction with the change in use from a single large home to two, two-bedroom dwelling units will lessen congestion in the street, and reduce the danger created by people backing into the road from the subject and abutting properties. The new septic system to be installed will promote health and general welfare by eliminating the risk of contamination to Hubbard Brook as well as the water well on the subject property. The proposed variance will not overcrowd the land, nor will it create an undue concentration of population. In actuality, the current proposal will contain 4.8 acres of land that can never be built upon, and the proposed use of 4 total bedrooms is less intensive use than the original 5-bedroom single family home. In support of item 3 above, the proposed two-unit structure will look essentially identical to the existing structure, as the building already has two doors. With no proposed changes to the exterior footprint of the structure, the only observable difference in the property will be the proposed parking lot. The exterior of the building rehabilitation to be done in conjunction with the proposed variance will eliminate an existing eyesore from that part of town and will in fact improve property values in the subject locus. It is also believed that other buildings in the subject locus already contain more than one dwelling unit.

2. S. Tower stated that if the variance were granted, the spirit of the Zoning Ordinance would be observed because: (Please see the answer in No. 1 above, as items one and two are generally construed together.)

3. S. Tower further stated that granting the variance would do substantial justice because, as explained in the treatise by Peter J. Laughlin Esq. found in *Land Use Planning and Zoning, New Hampshire Practice*, Vol 15, 4th. ED, the "only guiding rule is that any loss to the individual that is not outweighed by a gain to the public is an injustice." The New Hampshire Supreme Court has concurred with that statement in recent cases. According to the town welfare officer, there is a shortage of small apartments and dwelling units that young adults, couples, and families can afford to rent, but little demand for rentals of large single-family homes in Thornton. Granting of the ordinance will allow the applicants to more easily rent their building and will also provide two much needed dwelling units for people with limited means. As previously stated, it is believed that other buildings in the subject locus already contain more than one dwelling unit.

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4. S. Tower continued to explain that if the variance were granted, the values of the surrounding properties would not be diminished because, as stated earlier, the exterior of the building rehabilitation to be done in conjunction with the proposed variance will eliminate an existing eyesore from that part of town and will in fact improve property values in the subject locus.

5. S. Tower concluded that denial of the variance would result in an unnecessary hardship whereas the zoning restrictions as applied would interfere with the landowners' reasonable use of the property and the fact that such a denial would create a loss to the applicant which would not be outweighed by any gain to the general public.

S. Tower respectfully requested that the Zoning Board grant the application for variance.

J. Marshall asked if the current building meets the setbacks for a multi-family dwelling unit.

S. Tower stated that the structure is existing and there is no expansion in the footprint.

C. Hodges stated that the use of the property/structure is changing from a single family to a multi-family dwelling which requires a different setback.

J. Marshall stated that she realizes this is an existing building. The setback from the boundary line for a single-family home is different for a multi-family dwelling.

S. Towers stated that the current building set back is about 25 feet from the boundary. He was not aware that this was a problem.

S. Towers requested that the Zoning Board grant the variance and discuss the setback requirements with the Town Planner.

Chairman Rose stated that the variance for qualifying acreage be discussed and decided on tonight, and to follow up with the setback requirements with the Town Planner.

Chairman Rose asked for public comments for or against the application. No comment was received.

Chairman Rose closed the public hearing at 7:31 p.m.

W. Rose read the five conditions for granting the variance.

1. Granting the variance would not be contrary to public interest. The Board unanimously agreed.
2. The spirit of the Zoning Ordinance will be observed. The Board unanimously agreed.
3. Granting the variance would do substantial justice. The Board unanimously agreed.
4. The variance if granted would not negatively impact the value of surrounding properties. The Board unanimously agreed.
5. The denial of the variance would create an unnecessary hardship. The Board unanimously agreed.

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MOTION "To approve the request for Variance as provided for in Article VI section D of the Thornton Zoning Ordinance to permit an existing, dilapidated 5-bedroom house to be converted into 2, two-bedroom dwelling units on less than 2 "qualifying acres" for property identified as Tax map 6 Lot 3-9 located on 3374 US Route 3 as outlined in the application."

Motion: C. Hodges
Second: J. Marshalls
Discussion: None.
Motion Passes: 4-0

APPROVAL OF MINUTES:

MOTION: "To accept the minutes of June 21, 2017 as presented."

Motion: D. Day
Second: S. Bartlett
Discussion: None.
Motion Passes: 4-0 Abstained: C. Hodges

COMMUNICATIONS AND MISCELLANEOUS:

OTHER BUSINESS:

Chairman Rose welcomed Mr. Monti as an alternate.

Chairman Rose discussed the proposed application schedule and meeting schedule. The Board unanimously approved the draft meeting schedule and the application deadline schedule.

ADJOURNMENT:

7:39 p.m. MOTION: "To adjourn."

Motion: D. Day
Second: S. Bartlett
Discussion: None
Motion Passes: 4-0

Respectfully submitted,

Jessi Fleury
Board Secretary

Zoning Board of Adjustments

Meeting Date: August 30, 2017

Sign In Sheet

PLEASE PRINT YOUR NAME AND ADDRESS.

1. *Diane [Signature]* Thank you!
2. *Steph Tower*
3. *Eddie & Joan Donovan 30 Conkey Rd.*
4. _____
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